

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 693 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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AMIT ALCOHOL & CARBONDIOXIDE LTD

Versus

AWOOD POLYMER LTD

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Appearance:

MS SANGITA VISHAN for Petitioner

None present for Respondent

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 06/11/98

ORAL JUDGEMENT

1. This is defendant-petitioner's revision application under section 115 of C.P.C., 1908 against the order of the Civil Judge, (S.D.), Valsad dated 25-1-1995 below Ex.100 in special civil suit No.150/86. Under this order, the application Ex.100 filed by the defendant-petitioner has been dismissed. In this application, the defendant-petitioner prayed for the following reliefs:

- (a) That the necessary order or orders may please be passed to refer the aforesaid issue/s to the Hon'ble High Court of Gujarat;
- (b) That the necessary order or orders may please be passed for the stay or the present suit till the final decision of the Sp. Civil Application No.1031 of 1988 filed by the Defendant in the Hon'ble High Court of Gujarat;
- (c) That the costs of this application may please be awarded to the Defendant from the Plaintiff.
- (d) That any other order or orders may please be passed in favour of the Defendant as the nature and circumstances of the case require and as the Hon'ble Court may deem fit.

2. Learned counsel for the petitioner has advanced in this civil revision application those very submissions which have been made in support of this application before the learned trial court.

3. I have given my thoughtful consideration to the submissions made by the learned counsel for the petitioner.

4. Learned trial court has not committed any illegality in holding that it is not the case where any reference of question regarding validity of price control order is to be referred to this court. Learned trial court has taken the fact that the defendant-petitioner has filed special civil application No.1031/88 before this Court for setting aside of this price control order and the matter is pending before this Court. The plaintiff-respondent herein is not a party to that special civil application. Not only this, the defendant-petitioner made an attempt to get the proceedings of the suit stayed out of which this revision application has arisen by filing an application in special civil application No.1031/88 but that has not been granted by this Court. Once this Court has declined to grant the stay of the proceedings of the suit, I fail to see how it is justified on the part of the defendant-petitioner to file application for similar prayer in the trial court. This action of the defendant-petitioner certainly part take the character of abuse of process of court. When the defendant-petitioner has already challenged the validity of price control order by filing the special civil application No.1031/88

before this Court then filing of application for reference of similar issue by the trial court before this Court goes to show that how delaying tactics are being adopted by the defendant-petitioner to delay the disposal of the suit.

5. Secondly, the prayer made for the stay of suit on the ground that the special civil application has been pending before this Court is concerned, it is suffice to say that this prayer also deserves to be rejected, and rightly it has been rejected by the trial court, on two grounds, firstly, this attempt has been made by the petitioner by filing application in that very special civil application and it has failed. Secondly, earlier also with the same prayer the application has been filed by the defendant-petitioner for staying of the suit but that has also been rejected by the trial court. Second application for same relief otherwise also is barred by principle of constructive res-judicata which applies in the same proceedings of civil suit at different stages. Be that as it may. Though it is a clear case where the defendant has made an attempt to abuse the process of court still I do not consider it to be a fit case to take any appropriate action against it.

6. The net result of the aforesaid discussion is that the civil revision application fails and the same is dismissed. Rule discharged. However, as nobody has put appearance on behalf of the respondent, no order as to costs. Interim relief, if any, granted by this Court stands vacated.

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